

Remarks

Claims 1-3 and 7-18 currently appear in this application. The Office Action of January 8, 2007, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicant respectfully requests favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

In the specification text and in the claims the trademarks haven been capitalized and have been accompanied by the generic terminology.

The plant name "*Aphanizomenon-flos-aquae*" has been replaced by the correct name *Aphanizomenon-flos-aquae* var. *flos-aquae*.

In this office action, claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li (Hydrobiologia 438:99-105, 2000) in view of Brian (US 6,416,960).

As specified by the Examiner, it teaches the taxonomic of cyanobacteria genus *Aphanizomenon* and species *Aphanizomenon-flos-aquae* var. *flos-aquae* which are used as a health food supplement by several hundred thousand consumers in North America.

As specified in the applicant's specification text preparation based on dried *Aphanizomenon-flos-aquae* var. *flos-aquae* are recommended as a food complement which:

- allows an increase in the reactivity of the immunine system...
- is beneficial to health by the diversity of nutrients...
- is a food nutritional source of polyunsaturated fatty acids...

However Li does not suggest using of *Aphanizomenon-flos-aquae* var. *flos-aquae* in the preparation of beneficial compositions for preventing skin ageing and improving hair aspect, notably for a topical application.

In fact a *per se* incorporation of *Aphanizomenon-flos-aquae* var. *flos-aquae* in topically usable compositions is not possible considering the low level of solubilization of the dried alga, its strong coloration, its strong smell and the lack of stability of its biochemical compounds.

For this reason such incorporation cannot be considered as obvious for one skilled on the art from the Li's teachings.

The patent US 6 416 960 (Bryan) concerns diagnostic systems that rely on bioluminescence for visualizing tissues *in situ*.

These systems include composition containing conjugates that include a tissue targeting agent linked to a targeted agent. Administration of the compositions results production of light by targeted tissues that permits the detection and localization of neoplastic tissue for surgical removal.

It clearly appears that these systems which are mainly used for visualizing neoplastic or specialty tissue during invasive and non-invasive surgical procedure do not correspond to the purpose of the applicant's invention as claimed in the newly amended claim 1 which concerns a topically applicable which allows the active ingredients of *Aphanizomenon-flos-aquae* var. *flos-aquae* to be actively involved for the treatment of epidermis.

The teachings of Li combined with the teachings of Bryan cannot evoke the applicant's claimed composition in which solutions to the problems concerning solubility, coloration, odor and stability are solved.

For the reasons set up above rejection of the amended claim 1 as well as the depending claims 2 and 3 are deemed to cover an allowable subject matter.

The Examiner's objection directed to claim 7 are deemed to be traversed. Due to the fact that prior art has

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not be cited against this claim, this later is deemed to be in condition for allowance.

In view of the foregoing, early and favourable reconsideration of this office action together with the allowance of the claims is respectfully solicited.

Respectfully submitted,

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